

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No.: 09/575,429

Applicants: Jeffrey A Konecke

Filed: May 22, 2000

Title: SLIDE-IN CASSETTE FOR A CUP FOR
TESTING OF DRUGS OF ABUSE

Examiner: Lyle Alexander

Art Unit: 1743

Customer No.: 22242

Confirm. No.: 2363

Attorney Docket No.: 81734/7339

BRIEF IN SUPPORT OF PRE-APPEAL REQUEST FOR REVIEW

Mail Stop: AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Final Rejection mailed August 31, 2006, to which the period for response is being contemporaneously extended until January 31, 2007, a Notice of Appeal and a Pre-Appeal Request for Review are being submitted contemporaneously with this paper.

REMARKS

I. The Final Rejection of independent claims 1, 3, 16 and 24 errs in rejecting these claims because the reference shows no structure equivalent to Applicant's recitation of means integrated with the interior surface of a specimen cup to provide a receptacle inside of that container and adjacent to the interior surface of a flat front wall of that container, which receptacle is designed to slidably receive a cassette containing a test strip that will provide an indication of a characteristic of fluid specimen when easily viewed through the adjacent flat front wall and through a window in the cassette.

Claims 1, 3-8, 11-12, 16-17 and 19-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the disclosure of U.S. Patent No. 5,403,551 to Galloway et al. (hereinafter Galloway et al.).

Applicant discloses and claims a simple, but highly effective, device for testing a urine specimen or the like for potential drugs of abuse. A molded transparent specimen cup has a circular top which is closed with a lid and a main body that is shaped to be of uniform circular cross-section except for a recessed flat front wall. The receptacle is integrally formed within the container by sets of parallel bars that extend inward from the wall surface to create a receptacle which slidably receives a cassette that contains drug test strips which will absorb the urine specimen being tested and change color if a particular drug of abuse is present. Clear observation of the potential color change through a window in the cassette is made possible because the cassette lies adjacent the inner surface of the flat front wall while a window to the

drug strips is assured to face the wall because the cassette can only be slidably inserted into the receptacle in one orientation.

Galloway et al. disclose a specimen cup which has one flat wall, see FIGS. 2 and 3, and which is molded to have a small reservoir located above the exterior surface of that flat wall. The generally flat exterior surface of the cup is molded to create a shallow housing 42 in which an assembly of chromatograph strips can be supported below a horizontal pad of wicking material. A valve mechanism is provided interior of the cup to supply some of the urine sample to the upper reservoir, from which it will travel downward through weepholes and saturate the wicking strip. A separate exterior cover 48 is sealed to the exterior surface of the container 12, after placement of the assembly of chromatograph strips (see column 5, lines 2-5), to enclose them. This fairly complicated arrangement to mount an assembly of strips on the exterior surface of the Galloway et al. cup and then seal that arrangement with a cover that is likewise attached to the exterior surface of the container is not the equivalent of, nor does it fairly teach nor suggest Applicant's straightforward, simple and effective specimen cup having a flat front wall which incorporates an integral receptacle interior of the specimen cup wherein a slidably received cassette is received immediately adjacent the flat wall of the cup. The cassette is received in the receptacle preferably in only one orientation so the window in the cassette faces the flat wall through which the color change results of the assay that can be readily viewed. The rejection of independent claims 1, 3 and 24 and the claims dependent thereon should be reviewed and withdrawn.

Independent claim 16 contains, in addition to the recitations mentioned above, the recitation that the cassette has a dam structure attached to it which creates a recessed pooling area adjacent the cassette's open bottom for the sample flowing into the cassette's open bottom end portion. The Galloway et al. device feeds liquid specimen from an upper reservoir via weep holes leading to a wicking strip attached to the top of the chromatograph strips; it includes no equivalent structure to the above-recited dam structure. Accordingly, the rejection of claim 16 is submitted to be further in error. It should be reviewed, and claims 16 and 17 allowed.

The Examiner's statement, at the top of page 5 of the Final Rejection, relative to Applicant's having drawn attention to the instant invention permitting "only one orientation for the cassette's insertion into the chamber", that such is "not commensurate in scope with pending claims because no such limitations are claimed" is submitted to be in error. Attention is directed to claim 1 which recites "said receptacle only slidably receiving said cassette with said window facing said flat front wall of said container." Attention is also directed to claim 4 which recites "which receptacle has different opposite channels that mate with only one of said cassette's outside edges and orients said cassette for proper testing and viewing with said window facing said flat front surface of said container." Attention is further directed to claim 26 which recites "said receptacle which slidably receives said cassette has bars and said cassette has different channels formed along its opposite side edges which mate with said bars in said receptacle in only one orientation so that said window faces said flat front wall." It is submitted that the Final Rejection of these claims on this erroneous basis should be reviewed and withdrawn, and these claims and claims dependent thereon should be allowed for this additional reason.

CONCLUSION

Applicant submits that the above remarks demonstrate that the Final Rejection of claims 1, 3-8, 11, 12, 16, 17 and 19-27 is in error and that these pending claims should be reconsidered and allowed. Therefore, Applicant respectfully requests that the Final Rejection be withdrawn and, in the absence of no pertinent new prior art, that a Notice of Allowance be issued.

Respectfully submitted,

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